



BOSTON
REGIONAL OFFICE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
33 ARCH STREET, 24TH FLOOR
BOSTON, MA 02110-1424

August 13, 2024

By ECF

Honorable Judge John G. Koeltl
500 Pearl Street
New York, NY

MEMO ENDORSED

Re: *Securities and Exchange Commission v. Jonathan Farber et al.*, 1:24-cv-00273-JGK

Dear Judge Koeltl:

Pursuant to the Court's Individual Practice Rule II.B and L.R. 37.2, the Securities and Exchange Commission ("SEC") respectfully requests a pre-motion conference regarding Lois Farber's failure to appear at her deposition and its intention to file a motion to compel her appearance. Farber, defendant Jonathan Farber's mother, is not a party to the litigation, and was therefore served with a subpoena on June 28, 2024, to appear for her deposition on July 23, 2024, in the SEC's New York office.

History of Communication

Counsel to the SEC spoke to Farber by phone at least three times between June 28 and July 17, 2024, to ensure that Farber would appear for her deposition. In each instance, Farber said that it was not a good time to talk and ended the conversation. On July 18, 2024, counsel to the SEC received a call from an attorney associated with Farber, Tracy Brosnan. Ms. Brosnan indicated that Farber would need more time to obtain a lawyer who practiced securities litigation. Accordingly, the deposition was postponed to July 30, 2024, at 11am.

On July 25, 2024, counsel for the SEC emailed Ms. Brosnan to confirm whether Farber had retained counsel or whether she would proceed unrepresented. Ms. Brosnan replied that Farber had decided to represent herself and would be asserting her Fifth Amendment Right against self-incrimination. SEC counsel replied to Ms. Brosnan, and copied Farber directly, stating that Farber needed to assert her Fifth Amendment right on a question-by-question basis, and that the deposition was moving forward on July 30, 2024, at 11am.

Farber failed to appear for her deposition. SEC counsel called her three times between 11am and noon, leaving messages, and received no response. SEC counsel has also emailed her and received no response. On August 9, 2024, SEC counsel asked Farber to meet and confer ahead of filing this letter and has received no response.

We respectfully request that the Court either hold a pre-motion conference regarding Farber's failure to appear at her deposition or order Farber to appear for a deposition during August 2024.

Sincerely,

/s/ Nita K. Klunder

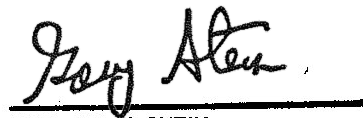
Nita K. Klunder
Senior Counsel
Division of Enforcement

cc: All defense counsel (via ECF); Lois Farber (via email and UPS)

Plaintiff is granted permission, without the need for a pre-motion conference, to file a motion to compel non-party Lois Farber's deposition. Plaintiff, if it wishes, may move for such relief in the form of a letter-motion in compliance with Rule III of my Individual Practices in Civil Cases.

Dated: New York, New York
August 28, 2024

SO ORDERED:

A handwritten signature in black ink, appearing to read "Gary Stein", is written over a horizontal line.

HON. GARY STEIN
UNITED STATES MAGISTRATE JUDGE